

Exhibit A

Patel v. Lyons

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

AKSHAR PATEL) CIVIL NO.:
) 25-1096-ACR
Plaintiff,)
vs.)
TODD M. LYONS,)
) April 16, 2025
Defendant.) Washington, D.C.
) 10:45 a.m.

Transcript of Motions Hearing
Before the Honorable Ana C. Reyes
United States District Judge

APPEARANCES:

For the Plaintiff: Steven A. Brown, Esquire
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For the Defendant: Joseph F. Carilli, Jr., Esquire
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Also Present: MacKlin Everly
Andre Watson

Reported by: Christine T. Asif, RPR, FCRR
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Proceedings recorded by machine shorthand; transcript produced
by computer-aided transcription

P R O C E E D I N G S

THE CLERK: This is civil action 25-1096, Akshar Patel versus Todd M. Lyons.

Will the parties please identify themselves for the record.

MR. BROWN: Good morning, Your Honor. Steven Brown and Brad Baniyas for the plaintiffs.

THE COURT: Government counsel.

MR. CARILLI: Joseph F. Carilli for the Government.

THE COURT: In the future gentleman if I or any court orders you to meet and confer, there are two components of a meet and confer meet and confer. One that you actually meet, which you do not do over email. And two is that you actually confer. The second I saw your --

Mr. Carilli, could you please look up and not be writing whatever you're writing right now and listen to me.

The second I saw your first joint status report I knew immediately that none of you had done either of those two things, which is why I asked for the further report which confirmed everything that I thought. Now did you all meet and confer by video this morning?

MR. BROWN: Yes, Your Honor.

THE COURT: How long did the meet and confer last?

MR. BROWN: About 40 minutes, Your Honor.

1 THE COURT: Okay. Did you guys make any progress?

2 MR. BROWN: Not towards a resolution, Your Honor,
3 but I think we have a understanding of each -- better
4 understanding of each other's position, Your Honor.

5 THE COURT: All right. So Mr. Carilli, can you
6 explain the SEVIS system to me exactly what it is and what it
7 does.

8 MR. CARILLI: SEVIS is an information system that
9 was established under 8 U.S.C., I'm sorry --

10 THE COURT: 1372.

11 MR. CARILLI: 1372, excuse me. That was established
12 post 9/11 for the Secretary of Homeland Security to be able to
13 monitor individuals who are in the country in F, M, and J
14 status. Obviously, the issue here is the portions of SEVIS
15 that are used by F. Immigration and Customs Enforcement
16 maintains that system under that statute and it is used to,
17 like I said, monitor and then also for individual schools to
18 be able to provide information about F-1 students that are
19 enrolled at their schools.

20 THE COURT: Okay. So the purpose of SEVIS is to
21 monitor people who are here in part on F-1 visas?

22 MR. CARILLI: Yes, Your Honor.

23 THE COURT: Okay. So what's the impact of taking
24 someone off of SEVIS, why would we not want to monitor
25 somebody?

1 MR. CARILLI: Well, to clarify, Your Honor, what
2 occurred here was, in SEVIS there is a drop down menu that
3 allows you to list active -- there's categories about an
4 individual. So the record wasn't deleted, it's just in SEVIS
5 that it was changed from active to terminated.

6 THE COURT: Okay. And what's the consequence of
7 moving someone from active to terminated?

8 MR. CARILLI: The consequence is exactly as
9 described, that it changed the status of the individual inside
10 SEVIS. It did not change the individual's immigration
11 status.

12 THE COURT: So what's the impact of it being changed
13 within SEVIS, why -- what happens when that occurs?

14 MR. CARILLI: I mean, it's an indication that in
15 system that the individual -- that their record in the system
16 has been -- the status is terminated. I can't --

17 THE COURT: No, I understand that. But what is the
18 impact -- what's the impact of it having been terminated? If
19 there's no impact, then I'm sure you have no problem moving it
20 back to active and we can all go home; right?

21 MR. CARILLI: Well, I think that the government
22 has -- ICE has indicated they're not going to change it back.
23 I think that --

24 THE COURT: That wasn't my question. I'm not really
25 concerned what ICE thinks they can and can't do, I'm concerned

1 with what I can do. And my understanding from the plaintiff's
2 argument is that a change of SEVIS from active to terminated
3 either automatically cancels their F-1 visa or is a precursor
4 to canceling their visa. I'm not quite sure what the argument
5 is, but I think it's the first. And the government says no,
6 no, no, that has nothing to do with immigration. So if it has
7 nothing to do with immigration, it must have something to do
8 with something, or else we would all change it back to active
9 and we could all go home.

10 So explain to me please what the consequence is of
11 changing something from active to inactive or terminated. And
12 do not say it's terminated within the SEVIS system, because
13 that is not an answer to my question. What is the impact of
14 terminating somebody within SEVIS?

15 MR. CARILLI: I'm not prepared to answer that --

16 THE COURT: How are you not prepared to answer --
17 I'm sorry how are you not here prepared to answer that
18 question? That's the only question in this litigation, Mr.
19 Carilli.

20 MR. CARILLI: The question here is whether --

21 THE COURT: No, Mr. Carilli -- Mr. Carilli. I'm the
22 one who decides what the questions here are, okay, not you.
23 Now, obviously, the first question in this case is what is the
24 practical import of canceling someone within SEVIS. And if
25 you don't know, we're all going to wait here while you call

1 someone and find out, because I'm not going to get jerked
2 around by you telling me you're not prepared to answer the key
3 question in this case.

4 What is the impact of someone being terminated
5 within SEVIS?

6 MR. CARILLI: I do not know --

7 THE COURT: All right. Mr. Carilli, that's fine --
8 Mr. Carilli, that's totally fine. We're all going to stay on
9 the phone here. You're going to go some other phone or you're
10 going to put yourself on mute. And you're going to call your
11 client and you're going to ask. And we're going to stay here
12 until you get an answer.

13 MR. CARILLI: Yes, Your Honor.

14 THE COURT: So, gentleman, you guys can hang back
15 and we'll hear from Mr. Carilli when he's done. And I'm going
16 to stay on the bench while you get this done. And if you
17 can't get someone on the phone. Get the next person on the
18 phone. Because I'm going to stay here until you get someone
19 on the phone. I'm ordering you to get your client on the
20 phone. So we're all going to stay here while you do that.

21 And you can put yourself on mute and turn yourself
22 off the video if you would like Mr. Carilli.

23 Gentleman, you guys can put yourselves off video if
24 you want to, just stay around in case we get back from him.
25 And Ms. White mute, please. Turn off my video.

1 (Pause in the proceedings from 10:53 a.m. to 12:06
2 p.m.)

3 THE COURT: Mr. Carilli, where are we?

4 MR. CARILLI: Your Honor, I'm still waiting for a
5 response from the Agency, in terms of the practical effects of
6 changing the record in SEVIS to terminated.

7 THE COURT: Can you explain to me please why it has
8 taken over an hour and I still don't have an answer, to what
9 must be the most obvious simple question that this case
10 presents as to what happens when someone gets taken off of
11 SEVIS? I mean, you know, why there's a delay, right, Mr.
12 Carilli? Do you want to tell me why there's a delay or do you
13 want to me to tell you why there's a delay?

14 MR. CARILLI: Your Honor, I don't know why there's a
15 delay.

16 THE COURT: Well, I'll tell you why there's a delay,
17 Mr. Carilli, because what happens when you take someone off of
18 SEVIS and you terminate them they lose their status and that's
19 not something you all want to tell the Court. Now, why you
20 all don't want to tell the Court, I don't know. But we're
21 going to get an answer to the question.

22 So I want agency counsel to stop whatever
23 conversations she's having or he's having right now and get on
24 the video so I can ask agency counsel what's going on.
25 Because we asked -- apparently agency counsel was on the phone

1 no later than 11:40 having this conversation. And it's not a
2 25-minute answer. So get agency counsel on the phone. And
3 after we get agency counsel on the phone, if I'm not
4 satisfied, we're going to have the declarant Mr. Watson come
5 to my courtroom and testify today. So get agency counsel on
6 the phone, please.

7 MR. CARILLI: Yes, Your Honor. Honor, excuse me,
8 before I go off video may I go off video to --

9 THE COURT: Yeah. Sure. Of course.

10 MR. CARILLI: Thank you, Your Honor.

11 (Pause in the proceedings from 12:08 p.m. to 12:19
12 p.m.)

13 THE COURT: Mr. Carilli, what's going on?

14 MR. CARILLI: Your Honor, I just forwarded the
15 invite to one of the agency counsel. Agency counsel indicated
16 there was also going to be another individual that was going
17 to join. So I have been waiting for that second name, but I
18 just forwarded it to the person that told me --

19 THE COURT: Okay. While we're waiting for them, is
20 the government's position that Mr. Patel's F-1 visa is in
21 effect or not in effect?

22 MR. CARILLI: Mr. Patel's F-1 visa is no longer
23 valid. So -- and I think there's a different genre between a
24 individual who has a valid visa which allows them to seek
25 admission into the United States versus when an individual has

1 lawful status after they have been admitted into the United
2 States.

3 THE COURT: Okay. Is he lawfully in the United
4 States right now?

5 MR. CARILLI: The government's position is that he
6 has not -- ICE has not taken -- has not terminated his F-1
7 status. And for ICE to be able to terminate his F-1 status,
8 they would have to put him in 1229a removal proceedings.

9 THE COURT: Is he lawfully in the United States
10 right now, yes or no?

11 MR. CARILLI: I'm not able to answer that question,
12 Your Honor.

13 THE COURT: How are you not able to answer that
14 question? What does that even mean? He's either here legally
15 or he's not here legally. You're the government's lawyer. Is
16 he here legally? I mean, how is Mr. Patel supposed to know if
17 he's here legally if you don't even know if he is here
18 legally?

19 MR. CARILLI: He was lawfully admitted to the United
20 States --

21 THE COURT: No, no, Mr. Carilli, there's a -- no, no
22 Mr. Carilli, there is a yes or no answer here. We are not --
23 this is not Schrodinger's visa, either he's here legally or
24 he's not here legally. If you cannot answer the question, you
25 have to explain to me why you cannot answer that question.

1 MR. CARILLI: I cannot answer that question. I have
2 talked to ICE as to whether or not they consider at this point
3 in time the individual, whether or not they are maintaining
4 lawful status.

5 THE COURT: And what does ICE say to that?

6 MR. CARILLI: I have not received a response, Your
7 Honor.

8 THE COURT: Do you realize that this is Kafkaesque?
9 I've got two experienced immigration lawyers on behalf of a
10 client who is months away from graduation, who has done
11 nothing wrong, who has been terminated from a system that you
12 all keep telling me has no effect on his immigration status,
13 although that clearly is BS. And now, his two very
14 experienced lawyers can't even tell him whether or not he's
15 here legally, because the Court can't tell him whether or not
16 he's here legally, because the government's counsel can't tell
17 him if he's here legally.

18 And you know what's going to happen when he gets
19 picked up? He's going to be accused of being here illegally
20 in the United States because when he is picked up and put
21 through deportation proceedings, everyone's going to say he
22 was here illegally and he was obviously here illegally and he
23 should have known that. And then some court down there is
24 going to say no, no, no, the Court up in D.C. asked and the
25 government said they didn't know. And those lawyers, do you

1 know what they are going to do? They're going to be like, I
2 don't know what that lawyer was thinking.

3 We are not going to do that here, Mr. Carilli. That
4 is not happening in this courtroom. We're going to get an
5 answer. And if the answer somehow contradicts what is in your
6 brief, or what is in God willing no, Mr. Watson's declaration,
7 there are going to be serious consequences. Where is your
8 agency counsel?

9 MR. CARILLI: Will you allow me to confer with the
10 agency --

11 THE COURT: No, you've been conferring with the
12 agency for -- I want the agency counsel on the phone, you sent
13 them the thing; right?

14 MR. CARILLI: Your Honor, what I meant by confer was
15 please let me try and get them back on the phone to find out
16 why they have not joined the call.

17 THE COURT: Fine.

18 MR. CARILLI: That's what I meant by --

19 THE COURT: Fine.

20 (Pause in the proceedings.)

21 MR. CARILLI: Your Honor, agency counsel is joining
22 on the line.

23 THE COURT: Plaintiff's counsel, is your client
24 allowed to go to classes right now?

25 MR. BROWN: Your Honor, it is our client's position

1 that based off of ICE he cannot be in status and thus cannot
2 attend classes.

3 THE COURT: Is anyone at the school preventing him
4 from going to classes?

5 MR. BROWN: I don't think there's anybody physically
6 preventing him, no, Your Honor.

7 THE COURT: All right. Government counsel, I assume
8 while this is pending you are okay if he goes to classes?

9 MR. CARILLI: I would need to confer with the Agency
10 about that, Your Honor. I asked that specific question before
11 this hearing and did not receive a response.

12 THE COURT: Is it they just don't respond to you or
13 they just don't give you an answer?

14 MR. CARILLI: I have received that they don't have a
15 response to my question. In other words, it's not a -- it is
16 not a they did not respond. It's -- as the Agency counsel
17 just explained to me, when I asked him to join the link is he
18 indicated that those are operational decisions that are with
19 the client, with their client.

20 THE COURT: Okay. Well, then I want someone from
21 the client -- where is agency counsel? How long does it take
22 to log on to a video? We've been waiting for the agency
23 counsel now 20 minutes.

24 (Pause in the proceedings.)

25 MR. CARILLI: Just communicated, Your Honor, that

1 he's trying to log in right now.

2 THE COURT: Mr. Everly, could you please enter your
3 appearance.

4 THE CLERK: Mr. Everly this is the courtroom deputy,
5 can you hear me, sir? I can't hear you.

6 MR. EVERLY: Can you hear me now?

7 THE COURT: Mr. Everly, can you please enter your
8 appearance.

9 MR. EVERLY: Yes. MacKlin Keith Everly, agency
10 counsel for U.S. Immigration and Customs Enforcement.

11 THE COURT: How long have you been agency counsel,
12 sir.

13 MR. EVERLY: Little less than two years.

14 THE COURT: Where were you before then?

15 MR. EVERLY: I was with Progressive and
16 (indiscernible) company.

17 THE COURT: All right. Government counsel asked you
18 some questions today about Mr. Patel, sort of rather obvious
19 questions that I have asked government counsel. He says he's
20 asked you and you said you can't -- you don't have an answer
21 for him because it was above your pay grade or with some
22 operational people. So I'm going to ask the two questions and
23 there will be more. And then we're going to get answers to
24 those questions, Mr. Everly, before we all get off the phone.
25 Am I understood?

1 MR. EVERLY: I understand. I understand, Your
2 Honor. I will preface my responses with I won't have any
3 additional information --

4 THE COURT: We're going to get additional
5 information, Mr. Everly, because you're going to tell me who
6 has that additional information and we're going to get that
7 person on the phone. And if we have to, I'm going to get them
8 under oath. All right?

9 MR. EVERLY: Understood, Your Honor.

10 THE COURT: The first question is, is Mr. Patel here
11 legally? Is he lawfully in the United States?

12 MR. EVERLY: Your Honor, since that's an operational
13 decision by my client, we're actively conferring with the
14 client, I don't have a response to provide at this time. I
15 believe --

16 THE COURT: Is Mr. Patel free to go to his classes
17 at Wisconsin?

18 MR. EVERLY: I have to reiterate the same. Same
19 response, Your Honor.

20 THE COURT: Well, what's the effect of terminating
21 someone on SEVIS? That's just a mechanical question, what's
22 the effect of terminating someone from SEVIS?

23 MR. EVERLY: Again, Your Honor, that's an
24 operational --

25 THE COURT: It's not an operational question,

1 Mr. Everly. That is a mechanical question. There is a policy
2 somewhere that says what the effect is, so tell me what the
3 effect is of terminating somebody from SEVIS.

4 MR. EVERLY: Your Honor, I apologize, I do not have
5 the answer to the question.

6 THE COURT: Okay. Who has -- Mr. Everly, name me
7 the individual who has the answer to the first two questions
8 and then the third question.

9 MR. EVERLY: Your Honor, all I can offer at this
10 point is that we have provided a declarant in this case --

11 THE COURT: Yes, fine. All right. That's fine.
12 We're going to get Watson, Mr. Watson here under oath since
13 he's filed a declaration. And if he doesn't give me the
14 answers that I need then we're going to get somebody else.
15 Because Mr. Watson's declaration doesn't tell me if Mr. Patel
16 is here legally. It doesn't tell me if Mr. Patel can go to
17 classes. And it doesn't tell me what the practical effect is
18 of terminating someone from SEVIS, but if we want to start
19 with Mr. Watson under oath subject to penalty of perjury, I'm
20 very happy to do that. Is there anybody else other than Mr.
21 Watson, who can give me answers to those questions? Let me
22 put it to you this way, who have you been communicating with
23 at the agency?

24 MR. EVERLY: I've been communicating with other
25 agency counsel.

1 THE COURT: Who? Names, names, Mr. Everly, who?

2 I am ordering you to tell me who have you been
3 communicating with. Now if you want to violate a court order
4 by stalling --

5 MR. EVERLY: Your Honor, I have no desire --

6 THE COURT: Okay. Great. Then tell me the name of
7 the person that you've been communicating with.

8 MR. EVERLY: I have been communicating with -- and I
9 will provide names, I'm just prefacing, I've been
10 communicating with individuals from our National Security Law
11 Division, primarily deputy chief Nina Gleiberman and the chief
12 of the division also Kate Briscoe. And also in communication
13 with my management deputy chief -- excuse me, deputy chief
14 Christa Leash and Chief Henry (indiscernible.)

15 THE COURT: Okay. Of those four people who is most
16 likely to have an answer to my questions.

17 MR. EVERLY: Unfortunately, they are all in the same
18 position as I am.

19 THE COURT: Who are they communicating with?

20 MR. EVERLY: They're communicating with the
21 client --

22 THE COURT: Who is the client? Who at the client is
23 the person who's making these decisions or can give me an
24 answer?

25 MR. EVERLY: We've been working with the

1 declarant --

2 THE COURT: All right. Fine. Fine. Get Mr. Watson
3 on the phone right now. I'm ordering him to appear to this
4 hearing. And he's going to be put under oath.

5 MR. EVERLY: Understood, Your Honor. I will take
6 those steps, if I can go on hold for a moment while I go do
7 that.

8 THE COURT: Yup.

9 MR. EVERLY: Thank you.

10 (Pause in the proceedings.)

11 THE COURT: I'm going to take a ten minute recess
12 I'm going to be back here at 12:45. Mr. Carilli, Mr. Watson
13 had better be on this phone when we get back, are we
14 understood?

15 MR. CARILLI: Yes, Your Honor.

16 THE COURT: All right.

17 (A recess was taken from 12:35 p.m. to 12:45 p.m.)

18 THE COURT: All right. Do we have Mr. Watson?

19 MR. EVERLY: Your Honor, we're in active contact
20 with him and we're working to get him here as soon as we can.
21 If we could just have 10 or 15 more minutes to accomplish
22 that, I would really appreciate that.

23 THE COURT: All right. I'm going to give you until
24 1:15.

25 MR. EVERLY: Thank you, Your Honor.

1 THE COURT: Have him here by then, all right?

2 MR. EVERLY: Yes, Your Honor.

3 THE COURT: If something happens and you can't get
4 him here by 1:15, alert my law clerk we'll all get back on
5 with the video. We'll figure out where to go from there, but
6 it's not going to be pretty. Okay?

7 MR. EVERLY: Yes, Your Honor. Thank you.

8 THE COURT: Thank you.

9 (A recess was taken from 12:47 p.m. to 1:15 p.m.)

10 THE COURT: All right. Mr. Watson, welcome. You're
11 on mute, sir.

12 MR. WATSON: My apologies. Good afternoon, Your
13 Honor.

14 THE COURT: No worries. All right. So you filed a
15 declaration on behalf of the government in this case. And I
16 have some questions for you about that declaration. I'm not
17 going to put you under oath at this time, but if I feel like
18 I'm getting the run around, which I hope I will not, I will
19 put you under oath. Okay?

20 MR. WATSON: Yes, ma'am.

21 THE COURT: All right. So first of all, can you
22 explain to me what the practical effect is of terminating
23 someone on SEVIS? How do I say that by the way, SEVIS, SEVIS?

24 MR. WATSON: SEVIS is appropriate.

25 THE COURT: Okay. So what happens, what's the

1 effect of terminating someone on SEVIS?

2 MR. WATSON: So it does not terminate their
3 nonimmigrant status, but what it does is it essentially raises
4 a flag as it relates to the student and their participation in
5 the student and exchange visitor program.

6 THE COURT: Okay. And so what happens if that flag
7 is raised, what's the effect of the flag raised? First of
8 all, who does it raise a flag to, ICE?

9 MR. WATSON: Well, it raises a flag to a designated
10 school official.

11 THE COURT: Okay.

12 MR. WATSON: Because they have access to the student
13 and exchange visitor information system. So a designated
14 school official works with ICE in managing the student and
15 exchange visitor program to ensure compliance with applicable
16 code of federal regulations as it relates to nonimmigrant
17 students studying in the United States. So it alerts the DSO,
18 the designated school official or the PSO as to that matter.

19 THE COURT: Okay. And so that flag tells the
20 official what? What does the official take from that flag?
21 I'm the school official, I have a flag on Mr. Patel, what do I
22 do now?

23 MR. WATSON: So it raises a -- it raises a gap, if
24 you will, a question about the student, and compliance as it
25 relates to the terms of their -- as it relates to the terms of

1 their participation in the program.

2 THE COURT: Okay. And how does that question get
3 answered? What question is asked, if they're in compliance?

4 MR. WATSON: Well, the question can be what
5 happened, what occurred. So there can be a notation in the
6 record saying what happened, or that someone may or may not be
7 in compliance.

8 THE COURT: Okay. So I'm -- so I'm the school
9 official, and I have Mr. Patel's transcripts and he's attended
10 all his classes. And so far as I, the school official, know
11 he's done everything he's supposed to do. I see that -- I
12 mean, I don't know if I see this from SEVIS, but I see from
13 somewhere that he got arrested -- or he got pulled over for
14 driving too fast in Texas, but that the charges were
15 dismissed. And so now am I satisfied that he's in compliance,
16 is everything kosher? If the answer to that is yes, what do I
17 do next?

18 MR. WATSON: So great question. And here's another
19 novelty as well too, designated school officials can also
20 reach out to field representatives.

21 THE COURT: Field representatives for -- I'm sorry,
22 field representatives for ICE?

23 MR. WATSON: Yes, ma'am.

24 THE COURT: Okay.

25 THE WITNESS: And there's a hand -- there's a

1 working relationship there as to compliance and oversight with
2 the program. So questions can be raised in that dialogue and
3 discussion. So like in this instance with the case being
4 dismissed, the question would be then what would the next
5 steps be in terms of in this case the defendant. So with
6 those charges being dismissed the question then becomes is
7 there a matter there that requires further review.

8 THE COURT: Okay.

9 MR. WATSON: As it relates to immigration.

10 THE COURT: All right. So let's say you're the
11 field representative for Wisconsin, and I'm -- you're the
12 field representative that there was cause for school officials
13 to contact, you and I have a good working relationship. I'm
14 the school official in Wisconsin. I get a notice, a flag that
15 Mr. Patel has been terminated on SEVIS. I call you and I say
16 what's this flag about? I've looked at his transcript I've
17 talked to his professors, he's in compliance with all our
18 obligations. Either I know or you tell me that he had been
19 arrested or pulled over for reckless -- for driving too fast
20 in Texas, but the charges were dismissed. And so then you --
21 so I say, okay, so now you field representative say what to
22 me?

23 MR. WATSON: The field representative in that
24 instance can say, well, based on this matter, as it relates to
25 the arrest, the question then becomes is there shall I say a

1 continuing requirement or a situation where this can or should
2 be revisited. So what's interesting to note --

3 THE COURT: I'm sorry, if what can be revisited?
4 His termination on SEVIS or his --

5 MR. WATSON: That's correct.

6 THE COURT: Okay. All right.

7 MR. WATSON: Yes, that's correct. His termination
8 in SEVIS. So the question then becomes by what means would
9 this person seek to do so, because what's interesting to note
10 about SEVIS is that there's also an ability for, if I'm
11 correct, CIS, Citizenship and Immigration Services to also do
12 the same as well too.

13 So this is a novelty, I'd like to note, in this
14 instance, where it was turned off pursuant to, I think what's
15 in the declaration, collaboration with State as to criminality
16 of nonimmigrant student studying in the United States. So
17 pursuant to --

18 THE COURT: Well, to be clear -- to be clear,
19 though, Mr. Watson, he's not a criminal. He hasn't been
20 charged of anything, much less found guilty of anything, but I
21 understand your point.

22 But so let -- so let me ask you this, right now as
23 of this moment, is Mr. Patel legally in the United States?

24 MR. WATSON: In terms of his status, this action in
25 itself, it doesn't terminate his nonimmigrant status at this

1 point. It doesn't.

2 THE COURT: So he's legally in the U.S. So the
3 answer to my question is yes, he's legally in the United
4 States, as of this moment?

5 MR. WATSON: I can't say that he's legally in the
6 United States.

7 THE COURT: Who can tell me if he's legally in the
8 United States?

9 MR. WATSON: So I would say right now the Department
10 of State by way of a nonimmigrant visa being issued would be
11 the starting point. Now, if the visa has been revoked or it
12 has expired, then the question becomes whether or not duration
13 of status would apply.

14 THE COURT: Okay. But let me -- well, I'm happy to
15 get someone from State on the phone with us, but before I do
16 that, I have your declaration -- I imagine you filed a lot of
17 these declarations recently, right, because apparently somehow
18 all this has happened, like a lot of dozens of people have
19 been terminated from SEVIS, this isn't the only declaration
20 you've filed; right?

21 MR. WATSON: Yes, ma'am.

22 THE COURT: Okay. All right. Well, for this one in
23 particular, I don't know if you have it in front of you, but
24 in paragraph 8, and this is for Akshar Patel, if I go to
25 paragraph 8 it says, on April 2nd, 2025, CTLD received

1 communications from the Department of State indicating that
2 Patel did not have a valid visa and requesting that the SEVIS
3 record be terminated. Was that -- I didn't -- are plaintiff's
4 counsel aware that his -- that State apparently terminated his
5 visa?

6 MR. BROWN: Your Honor, I don't believe his visa is
7 the issue we're challenging, because he had a B visa and then
8 changed his status to F-1. So he is not on that B visa. I
9 can double -- I'm going to double check right now.

10 THE COURT: But he's on a valid F-1 visa.

11 MR. BROWN: He has valid F-1 status until this
12 happened, Your Honor.

13 MR. CARILLI: Your Honor, if I may?

14 THE COURT: Yeah, sure, please.

15 MR. CARILLI: Yes, Your Honor. Plaintiff initially,
16 as I understand from the Department of State, plaintiff
17 initially was issued an H-4 visa based on his -- based on his
18 mother coming in on an H -- I believe an H-1B.

19 THE COURT: Okay.

20 MR. CARILLI: And he was admitted into the country
21 on that H-4 visa in an H-4 status. He then sought an I
22 believe adjusted status to that of an F status, and then is in
23 the country on an F status.

24 THE COURT: Okay. So then Mr. -- I'm sorry, sir.

25 MR. CARILLI: And the H-4 visa validity period has

1 expired, which routinely happens for -- depending on how
2 individuals come into the country with a nonimmigrant
3 category, their visa validity period will be different than
4 the stamp that is provided on their I-94, which is their entry
5 document, which the periods may be different or in a lot of
6 cases individuals will be admitted into the United States in a
7 duration of status.

8 So, for example, Your Honor, if you've seen H-1B
9 case where is an individual says they've been in the United
10 States, they've been working but they had to leave for a
11 family issue or they have to leave and depart the United
12 States to get a new visa so that they can come and go from the
13 United States on that H-1B, that's why there's a different
14 between those two things. And again the visa is just an
15 admission document, but also I would note that visa
16 revocations can form some basis for deportability under 327.

17 THE COURT: Okay. Thank you, sir.

18 So this April 2nd, 2025, communication that you
19 received from the State Department, Mr. Watson, do you have it
20 available to you? I mean, was that a mistake by the State
21 Department that he was on an H-1 visa and he shouldn't be
22 terminated, but State just didn't pick up he was here validly
23 as a student. I'm trying to figure out why State communicated
24 with you to have this record terminated?

25 MR. WATSON: So, Your Honor, I don't have that

1 record in front of me. And we are actually rescrubbing these
2 lists, because to the point that the gentleman that just spoke
3 pointed out, there are some of those nuances that have come
4 about. So I don't have the information in front of me. And I
5 believe State is re-examining various cases in a quality
6 control measure as well.

7 THE COURT: Okay. So let me put it to you this way.
8 So far as I can understand this kid has done everything that
9 he's supposed to have done. And it seems like there's been
10 some miscommunication or something has happened. And I'm
11 happy for State to do quality control. I'm happy for you to
12 follow up on this and other individuals. But what I want
13 coming out of this hearing is to at least either order
14 either -- I want this student to be able to go to class and
15 not get picked up by ICE.

16 Now, we can do that by, Mr. Watson, you agreeing to
17 that, or someone agreeing to that, and the plaintiffs going
18 and talking to Wisconsin people and saying he can go to
19 classes. And if the Wisconsin person wants to talk to the
20 field representative, that's fine. And if I need to put this
21 in an order, I will. And I want him not to be picked up by
22 ICE.

23 Now, we can do this one of two ways. One, we can
24 all agree that this is what's going to happen and Mr. Patel,
25 his lawyers can tell him legitimately that he can go to class,

1 or I can enter a temporary restraining order saying that he
2 can go to class and that he can't be deported. And since
3 everything I've heard from you all is that that seems not
4 inconsistent with what you all know as of this moment, not
5 something that you all would challenge.

6 So Mr. Carilli, how should we proceed here?

7 MR. CARILLI: Your Honor, I would comment that under
8 8 U.S.C. 1252(g), which addresses the jurisdiction of courts
9 to be able to over the decision by the Department of Homeland
10 Security to initiate removal proceedings and stripped that
11 jurisdiction from district courts. And so for any matters
12 arising from a decision as to whether or not to place an
13 individual in removal proceedings, the Congress has said that
14 there's no jurisdiction for district courts in those
15 decisions.

16 THE COURT: All right. Well, let's take the classes
17 first. We can all agree that I can order him to be allowed to
18 go to class as a TRO for now; right? Mr. Carilli?

19 MR. CARILLI: Your Honor, if you just give me a
20 moment to look through the relief that has been sought in the
21 TRO, I just need -- I need a moment to ensure that I -- and I
22 also, I mean, that's a -- you're asking me for potentially
23 something that is beyond the scope of my authority.

24 THE COURT: Okay. Here's what we're going to do,
25 Mr. Carilli, because I understand you guys are in a tough

1 spot, because you have a bunch of these cases and you don't
2 want a bunch of bad case law. I get it. One way or the other
3 this kid is going back to school today if he has classes,
4 tomorrow if he has classes tomorrow. And if ICE touches this
5 guy there's going to be repercussions.

6 So now we can do this with you all agreeing that
7 amongst yourselves, and if anything happens you all bring it
8 to my attention, or we can do it through a subsequent hearing
9 this afternoon where I enter a TRO order. I would rather the
10 former. And I assume you guys are fine with both of those, at
11 least agreeing with plaintiffs to those because -- or just
12 some agreement that if ICE is going to pick up the guy that,
13 you know, they have 24 hours notice so that they can seek
14 emergency relief, I mean, we can just do that, right. He can
15 go to class. And if ICE is going to do anything with him,
16 which I don't suspect they are going to, the plaintiffs get 24
17 hours notice. All right.

18 You guys come to that agreement, make life easy for
19 everyone, or you can continue to deal with me, Mr. Carilli.
20 And I will not stop with you or Mr. Everly or Mr. Watson,
21 we're going to continue down the road. All right?

22 MR. CARILLI: Yes, Your Honor.

23 THE COURT: All right. So I'm going to set another
24 hearing for 4:30, but you guys tell me that we don't need it.

25 Mr. Watson, do you have any idea how long State is

1 going to take with this quality review?

2 MR. WATSON: Ma'am, I can tell you that they are
3 proceeding in earnest to do so, with the level of effort
4 they've made great strides in progress in coordination with my
5 team.

6 THE COURT: Okay.

7 MR. WATSON: So ma'am, I can emphasize to you that
8 sooner than better is occurring, ma'am.

9 THE COURT: Perfect. All right. So it seems like,
10 Mr. Carilli, since my hope -- my strong hope is that State is
11 going to realize that this guy was on an F-1 visa and should
12 not have been terminated from SEVIS, my strong hope is that
13 that happens, that this was all an unfortunate mix up, that I
14 don't have to enter a TRO. So I'm hopeful Mr. Carilli that
15 you and plaintiffs can figure something out amongst
16 yourselves. Knowing, of course, that if anything happens,
17 plaintiff's lawyers, you can always seek relief from me.

18 Plaintiff's lawyers, do not make Mr. Carilli's life
19 miserable here. Let's just practically try to get this guy
20 back to class and at least settled in the U.S. until we have
21 final determination of something. Okay?

22 So I'm setting a hearing for 4:30 tentatively.
23 Hopefully, you all will tell me that we don't need it.

24 Mr. Watson, I understand that you're incredibly
25 busy. And the last thing that you ever want to hear is

1 lawyers saying I need you on the phone right now with the
2 Court. So I appreciate you getting on the phone. And I
3 appreciate you giving me this information. Thank you,
4 everybody.

5 MR. WATSON: Thank you, ma'am.

6 MR. BROWN: Thank you, Your Honor.

7 (A recess was taken from 1:33 p.m. to 4:31 p.m.)

8 THE CLERK: Your Honor, recalling civil action
9 25-1096, Akshar Patel versus Todd M. Lyons.

10 Will the parties please identify themselves for the
11 record, starting with plaintiff's counsel.

12 MR. BANIAS: I apologize, Brad Banias. And I
13 believe Steve Brown will be joining us for the plaintiffs.

14 THE COURT: All right. Mr. Carilli.

15 MR. CARILLI: Good afternoon, Your Honor. Joseph
16 Carilli on behalf of the government. And I'm expecting agency
17 counsel to join.

18 THE COURT: All right. Where are we gentleman?

19 MR. CARILLI: Your Honor, the plaintiffs counsel and
20 I discussed a possible resolution. I spoke to the agency and
21 the agency is not willing to reach a resolution with
22 plaintiff's counsel.

23 THE COURT: Why isn't the agency willing to reach a
24 resolution?

25 MR. CARILLI: They said at this point in time they

1 are not willing to do so.

2 THE COURT: Mr. Everly can you please explain to me
3 why your agency is not willing to reach a resolution in a case
4 where they can't even tell me if the plaintiff is legally in
5 the United States, and it appears that by all events someone
6 at State and ICE screwed up here, and apparently in a lot of
7 other cases? That's to you, Mr. Everly.

8 MR. EVERLY: I apologize, Your Honor, I just logged
9 in, I thought you were addressing --

10 THE COURT: No, I'm addressing you. I want to know
11 why the Agency is not willing to reach a resolution when it
12 appears by all accounts that there was a massive screw up at
13 State, not just in this case, but in a lot of other cases,
14 where individuals who are in this country legally, have been
15 going to school, have been doing everything that they're
16 supposed to be doing, are now getting notices that their SEVIS
17 has been terminated when it appears it shouldn't have been.
18 And they're now having to hire lawyers. And they have hired
19 lawyers for which they're spending money and now those lawyers
20 are in federal court.

21 And this morning I asked the most straight-forward
22 question one could ask, which is what is the effect of someone
23 being terminated on SEVIS? And even though the government had
24 represented that it has no effect on an individual's
25 immigration status, no one could tell me what the effect of

1 having been terminated in SEVIS even is until I got you on the
2 phone and then I got Mr. Watson on the phone. And I still, to
3 this day, do not have an answer from the government as to
4 whether or not the individual is here legally or not legally.

5 We all had what I thought was a very fair, very
6 simple process moving forward. ICE and the plaintiffs would
7 work out an agreement where the plaintiff could continue to go
8 to school. And since no one is able to tell him that he's
9 here illegally, he would stay in the country. Now, what is
10 the problem with that resolution from your agency's
11 perspective?

12 MR. EVERLY: Your Honor, all I can offer at this
13 time is my leadership is not able to provide a response at
14 this time.

15 THE COURT: Who at your leadership, because we're
16 going to get that person on the phone.

17 MR. CARILLI: Your Honor, if I may?

18 THE COURT: Mr. Carilli.

19 MR. CARILLI: From the government's perspective, we
20 believe that the Court -- the government has stated its
21 position in its papers and that --

22 THE COURT: Yeah, but your statement in your papers
23 is not supported by the evidence, in fact, it's contradicted
24 by the evidence.

25 MR. CARILLI: Your Honor, I disagree --

1 THE COURT: And you can't even tell me what the
2 government's position is. Tell me right now, right here, Mr.
3 Carilli, is the plaintiff in the country legally or illegally?

4 MR. CARILLI: The government, as the individual
5 witness appeared before the Court --

6 THE COURT: Mr. Carilli -- Mr. Carilli, do not
7 lecture me. Do not lecture me. I'm well aware of what has
8 happened in this case. Is the individual here legally or
9 illegally?

10 MR. CARILLI: That is an operational decision --

11 THE COURT: Mr. Carilli -- Mr. Carilli --

12 MR. CARILLI: I can't answer that.

13 THE COURT: You can't answer that because the
14 government doesn't know or a decision hasn't been made?

15 It is outrageous, it is outra- -- Mr. Carilli, no,
16 stop. It is outrageous that we have an individual who is
17 being told that he has been terminated in SEVIS, which by all
18 accounts is because your witness said that the State
19 Department told him that he was not here on a valid visa, even
20 though he is here on a valid visa. And now, the government is
21 not able to say if he's here legally or illegally. That is
22 either willful -- it is either willful or incompetent, neither
23 of which are good.

24 MR. CARILLI: Your Honor, I would first state that
25 what the declarant stated when I stated earlier about whether

1 the individual is here on a valid visa, as we stated the
2 validity period of his visa has expired.

3 THE COURT: Of the H visa. Of the H visa. That was
4 the validity of the H visa. And the problem was that
5 apparently State didn't pick up that he's been moved to an F-1
6 visa, or maybe State has picked up that he's been moved to an
7 F-1 visa, we don't know, because apparently State made a
8 number of mistakes and now it's trying to correct them.

9 What I find particularly outrageous, Mr. Carilli and
10 Mr. Everly, is that we are here with the government of the
11 United States not able to tell a federal court whether a
12 plaintiff is here legally or illegally. Even though that
13 you've had this case since, when did you all file this,
14 Mr. Brown, Friday, Thursday, when did you all file this?

15 MR. BANIAS: Last Wednesday, Your Honor.

16 THE COURT: Last Wednesday. We're at a week and the
17 United States Government can't tell me whether or not an
18 individual's in the country legally or illegally. You can't
19 even tell me why he's been terminated from SEVIS.

20 Here's what we're doing, Mr. Carilli, I'm entering a
21 TRO. I find that there is potential irreparable injury, one,
22 in whether or not he'll be able to go to school. And two,
23 whether he might be picked up at any moment mistakenly by ICE,
24 put on a plane and sent somewhere to never be heard from
25 again. And while that might seem like an exaggeration, we all

1 now know that's not an exaggeration and it's, in fact, quite
2 possible.

3 So I'm entering a TRO. He's going to be put back on
4 SEVIS in active status today within the hour. And that TRO is
5 going to be in effect until we have briefing on this issue,
6 which you all tell me what briefing schedule you want.

7 And in that briefing, Mr. Carilli, the government is
8 going to tell me why he was terminated from SEVIS, whether
9 that was appropriate or not, and whether he's in the country
10 here legally. Because I find that it is very likely that
11 plaintiffs are going to be able to prove that this was done
12 arbitrarily and capriciously. And, you know, why I find it's
13 likely that they're able to prove that, because you all can't
14 tell me otherwise.

15 So what briefing schedule do you all want and what
16 hearing time do you want?

17 MR. CARILLI: Your Honor, I would defer to
18 plaintiffs, if they would like to supplement their motion
19 first before -- and then I can speak as to when the government
20 would like to file a response to that.

21 THE COURT: Well, the government is filing some
22 response, because I want these questions answered.

23 Mr. Brown, what schedule do you guys want? I don't
24 want the TRO holding out too long.

25 MR. BANIAS: Your Honor, I apologize. Mr. Brad

1 Bantias for the plaintiffs. We are happy to file by Friday or
2 Monday, Monday preferably, only because I have another hearing
3 tomorrow. But Friday would be fine, Your Honor, we're happy
4 to move as quickly as we can. And we'd like to amend our
5 briefing to address these issues head on.

6 THE COURT: All right. Please also address the
7 finality of the issues. So that would be -- that would be
8 Friday the -- Monday the 21st?

9 THE CLERK: Yes, Your Honor.

10 MR. BANIAS: Yes, Your Honor. That would be
11 great.

12 THE COURT: Mr. Carilli, how much time would you
13 like to respond?

14 MR. CARILLI: The government would like the time
15 that's permitted under the local rules, one week, so the
16 28th.

17 THE COURT: All right. And then we will have the
18 TRO hearing on the 29th. Mr. Watson is going to be in my
19 courtroom. We'll have the PI hearing on the 29th. Mr.
20 Carilli, Mr. Everly, both of you are going to be in my
21 courtroom, as is Mr. Watson, as is any other declarant you
22 want. And I want witness in this courtroom who can tell me
23 whether the plaintiff is here legally or illegally. Are we
24 clear, Mr. Carilli? That's going to be in my order.

25 MR. CARILLI: Yes, Your Honor.

1 THE COURT: All right. Mr. Bantias, Mr. Brown, I
2 suggest you all be here in person too. If you can't -- if you
3 can't you can appear by video, but I suggest one of you be
4 here in person.

5 Plaintiffs lawyers, I don't know if I have the power
6 to award attorney's fees in this case, but if I do you better
7 bring that to my attention, because if I find that the
8 government has been screwing around on this, we're going to
9 get into it. All right. Obviously, if I can't award fees, I
10 can't, but -- and maybe the government will tell me that I've
11 been wrong all along and, in fact, this wasn't arbitrary and
12 capricious and there was actually a reason that all this
13 happened and just nobody knows today, you know, I'll be the
14 first to say the government was right.

15 But right now what I'm seeing is that the government
16 is doing things at a very fast pace without much regard to the
17 effect it actually has on human being's lives. And the fact
18 that this student, who is months from graduation, is now
19 having to pay two lawyers if not more to find out whether or
20 not he's even in the country legally, which is frankly beyond
21 belief at this point. But we will be here.

22 You guys, Mr. Bantias, Mr. Carilli, I understand you
23 guys are coming up with TRO language, come up with agreement
24 for TRO language in this case that's similar. I want him back
25 on SEVIS though.

1 Mr. Everly, how soon can that happen?

2 MR. CARILLI: Your Honor, I will have to reach out
3 to those who can reinstate it, but it will be done as quickly
4 as possible.

5 THE COURT: All right. If it's not done, Mr.
6 Bantias, Mr. Brown, we're going to get into contempt issue,
7 because that's an order of the court. Are we clear? Is
8 everyone clear on that? Is there any lack of clarification on
9 what I have ordered with respect to him being put back on
10 active in SEVIS immediately.

11 MR. CARILLI: Your Honor, no.

12 THE COURT: All right. Great. You guys come up
13 with TRO language. I know that you guys had until 10:00 a.m.
14 tomorrow for Judge Walton. If you guys need until 10:00 a.m.
15 tomorrow that's fine. I want him put back on SEVIS as quickly
16 as possible. Are we all clear?

17 MR. CARILLI: Yes, Your Honor.

18 MR. BANIAS: Yes, Your Honor.

19 THE COURT: Mr. Carilli, I know that this is not
20 your fault. I know that you're just doing what you can.
21 Mr. Everly, I assume that you're doing what you can. But I'm
22 not playing games. I'm not going to be jerked around by
23 anyone in your leadership. It's not going to happen. Are we
24 clear on that?

25 MR. CARILLI: Yes, Your Honor.

1 THE COURT: Mr. Everly?

2 MR. EVERLY: Yes, Your Honor.

3 THE COURT: I would suggest that you let your
4 leadership at agency and Mr. Watson, who I found to be
5 forthright today at least, know that we're done playing games.
6 I want answers. I want to get this settled. If this was
7 arbitrary and capricious, I'm going to say that. If there was
8 a reason why it happened then we'll get into that too, and
9 I'll obviously listen for it, right. But I'm not going to get
10 here on 29th and have a response of I don't have an answer
11 from my client. Are we understood? Mr. Everly, are you
12 understood that we're not going to get here on the 29th with
13 anyone saying to me I don't have an answer from my client?

14 MR. EVERLY: I understand, Your Honor.

15 THE COURT: All right. Thank you.

16 (The proceedings were concluded at 4:44 p.m.)

17
18 I, Christine Asif, RPR, FCRR, do hereby certify that
19 the foregoing is a correct transcript from the stenographic
20 record of proceedings in the above-entitled matter.

21 _____/s/_____
22 Christine T. Asif
23 Official Court Reporter
24
25

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